

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : GORDON, Andrew W. et al.
Application No. : 10/734,050
Filed : December 11, 2003
Title : Mobile Desalination Plants And Systems, And Methods
For Producing Desalinated Water
Examiner : Menon, Krishnan S.
Art Unit : 1723

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 5.25
FOR A RETROACTIVE FOREIGN FILING LICENSE

RECEIVED
DEC 23 2004
LICENSING & REVIEW

Pursuant to 35 U.S.C. § 184 and 37 C.F.R. §§ 1.182 and 5.25, the undersigned hereby petitions the Commissioner for Patents for a retroactive foreign filing license for the above-identified application.

As required by 37 C.F.R. § 5.25, the petition includes:

- (1) A listing of each of the foreign countries in which the unlicensed patent application material was filed,
- (2) The dates on which the material was filed in each country,
- (3) A verified statement (oath or declaration) containing:
 - (i) An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
 - (ii) A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
 - (iii) An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and

11/30/2004 ANDHDAF1 00000141 10734050

01 FC:1464

130.00 DP

(4) The required fee (§1.17(h)).

STATEMENT OF THE FACTS

1. The present application was filed with the U.S. Patent and Trademark Office on December 11, 2003. The present application is a continuation-in-part of U.S. Patent Application No. 10/630,351 ("the '351 application"), filed July 30, 2003, which claims priority to U.S. Provisional Application No. 60/416,907, filed October 8, 2002, and the U.S. Patent Application No. 10/453,206, filed June 3, 2003, and converted to U.S. Provisional Application No. 60/505,341, on July 14, 2003.
2. A Foreign Filing License was granted in the parent case (i.e., the '351 application) on October 27, 2003 (copy of the Updated Official Filing Receipt is attached as Exhibit A).
3. The unlicensed application was filed in Pakistan on April 7, 2004, and was assigned an application number of 239/2004 by the Patent Office of the government of Pakistan (copy of a filing receipt is attached as Exhibit B).
4. The unlicensed application was filed in the Patent Office of the Cooperation Council for the Arab States of the Gulf ("GCC") on April 7, 2004, and was assigned an application number of GCC/P/2004/3368 by the GCC (copy of a filing receipt is attached as Exhibit C).
5. The publication date of the '351 application is indicated on a Notice of Publication of Application as April 8, 2004 (copy of the Notice of Publication of Application attached as Exhibit D).

6. The present application was not under a secrecy order at the time it was filed abroad, and it is not currently under a secrecy order (copy of Patent Application Information Retrieval (PAIR) results attached as Exhibit E). As no secrecy order had been imposed, a foreign filing license was not required for the subject matter in question as of June 11, 2004 (six months after filing the present application). (See 35 U.S.C. 184).

7. The publication date of the present application is indicated on a Notice of Publication of Application as October 21, 2004 (copy of the Notice of Publication of Application attached as Exhibit F).

CONCLUSION

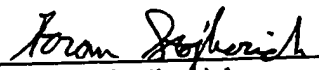
Together with this Petition, a check in the amount of \$130.00, the proper fee under 37 C.F.R. § 1.17(h), a duplicate copy of this Petition, and a Declaration under 37 C.F.R. § 5.25(a)(3) indicating that: (1) the subject matter in question was not under a secrecy order at that time it was filed abroad, and that it is not currently under a secrecy order; (2) the license has been diligently sought after discovery of the proscribed foreign filing; and (3) an explanation of why the material was inadvertently filed abroad through error and without deceptive intent without the required license under 37 C.F.R. § 5.11 first having been obtained.

In light of the above, the attached exhibits, and the Declaration, the undersigned believes that the requirements of 37 C.F.R. § 5.25 have been satisfied. Accordingly, it is respectfully requested that the Office issue a retroactive Foreign Filing License.

The Commissioner is hereby authorized to charge any additional fees required under 37 C.F.R. § 1.17, or credit any overpayment, to Deposit Account No. 16-1435.

Respectfully submitted,

Dated: November 23, 2004


Goran P. Stojkovich
Registration No. 45,841

KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400
Tel: (336) 607-7300
Fax: (336) 607-7500